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प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bills were introduced in the Lok Sabha on 29th April, 2005:—

BILL NO. 60 OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2005. Short title.
2. In article 16 of the Constitution, in clause (4A), after the words, "in matters of promotion, with consequential seniority, to any class or classes of posts", the words "with initial seniority at appointment being fixed according to roster point" shall be inserted. Amendment of article 16.
3. In the Ninth Schedule to the Constitution, after entry 284 and before the Explanation, the following new entry shall be inserted, namely:— Amendment of the Ninth Schedule.
"285. The Manipur Reservation of Vacancies in Posts and Services (For Scheduled Castes and Scheduled Tribes) Act, 1976 (Manipur Act 1 of 1977).".

STATEMENT OF OBJECTS AND REASONS

The Government servants belonging to the Scheduled Castes and the Scheduled Tribes had been rightly enjoying the respective places assigned to them in the roster in some States like Haryana and others. Their *inter-se* seniority *vis-a-vis* general candidates had been protected by filling up the slot vacancies according to the roster in order of the merit list prepared by the Public Service Commission or Selection Committee. Their position has been adversely affected by the judgment of the Supreme Court in the case of Bimlesh Tanwar (2003) AIR SCW 1508. The ruling has overturned several previous landmark rulings by noting that the Constitution does not speak of fixation of seniority/roster. Appointments *en bloc* however defeats the purpose and intent of roster because it is meant to maintain adequate percentage and *inter-se* seniority representation of backward classes of citizens at any point of time in all classes (IV to I) of employment. It is also in contravention of the intention of the Constitution (92nd Amendment) Act, 2001. Therefore, to clear any doubt, amendment of article 16(4A) is necessary.

The State of Manipur enacted the Manipur Reservation of Vacancies in Posts and Services (for Scheduled Castes and Scheduled Tribes) Act, 1976 after achieving Statehood in 1972. However, rules framed in 1979 to implement the Act had been rescinded twice in 1991 ostensibly with the intention to never implement it, for nothing had been done inspite of considerable representations from the aggrieved categories to concerned authorities. This can only be addressed by inclusion of the Act in the Ninth Schedule.

The Bill seeks to achieve the aforesaid objects.

NEW DELHI;
March 18, 2005

MANICHARENAMEI.

BILL No. 61 OF 2005

A Bill to provide for conversion into revenue lands of all such forest lands which situate in the State of Uttaranchal forming part of reserved forest or protected forest and which had settlements prior to the 24th day of October, 1980; for regularisation of all such encroachments and settlements and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the State of Uttaranchal (Regularisation and Conversion of the Pre-1980 Settlements on Forest Lands into Revenue Lands) Act, 2005. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. (1) With effect from such date, as the Central Government may, by notification in Official Gazette appoint, any settlement or encroachment, made prior to the 24th day of October, 1980, on any land declared as a reserved forest or protected forest, which is situated in the State of Uttaranchal, shall be deemed to have been regularized and any such reserved or protected forest land shall also be deemed to have been converted into a revenue land: Regularisation of settlements in forest lands.

Provided that the date of notification shall not be later than one year from the date on which the President assents to the State of Uttaranchal (Regularisation and Conversion of the Pre-1980 Settlements on Forest Lands into Revenue Lands) Act, 2005.

(2) Any notification or order issued by the Central Government or the Government of the State of Uttar Pradesh before the Uttar Pradesh Reorganisation Act, 2000 came into force or the Government of the State of Uttaranchal declaring a land to be a reserved or protected forest and which is deemed to have been converted into a revenue land by the notification issued by the Central Government under sub-section (1) shall, to the extent, it is repugnant to the provisions of the said sub-section, have no effect from the date of issue of the said notification.

(3) The notification issued by the Central Government under sub-section (1) shall have effect notwithstanding—

(i) the pendency of any suit filed by any person or body of persons in any court before or after the issue of the said notification disputing a claim to a right in or over any land or portion of such land which is deemed to have been converted into revenue land under the said sub-section;

(ii) any judgment, decree or order of any court or tribunal to the contrary; and

(iii) anything contained to the contrary in the Indian Forest Act, 1927 and the Forest (Conservation) Act, 1980.

16 of 1927.
69 of 1980.

Constitution
of Committee
of Experts.

3. For the purpose of section 2, the Central Government shall, in consultation with the Government of the State of Uttaranchal, within one month from the date of assent to the State of Uttaranchal (Regularisation and Conversion of the Pre-1980 Settlements on Forest Lands into Revenue Lands) Act, 2005 constitute a Committee of Experts consisting of officials of the Department of Revenue, Finance and Tribal Welfare of the State of Uttaranchal and such other experts from such vocations, as it may deem fit.

Functions of
the Committee
of Experts.

4. (1) The Committee of Experts constituted under section 3 shall,—

(i) identify the lands which form part of the reserved or protected forest in the State of Uttaranchal which had settlements or encroachments prior to the 24th day of October, 1980;

(ii) prepare a list of persons making claims to a right in or over any such land or portion thereof; and

(iii) decide upon claims to a right in or over any such land or portion thereof in cases of dispute:

Provided that a suit may be initiated against the decision of the Committee of experts by the affected person or body of persons in the court of appropriate jurisdiction within one month from the date of decision of the Committee.

Explanation: For the removal of doubts, it is hereby declared that the pendency of any suit brought under clause (iii) shall not affect the conversion of any reserved or protected forest land into revenue land by notification issued under sub-section (1) of section 2.

(2) The Committee of Experts shall, within ten months of the date of its constitution, submit its report to the Central Government.

Central
Government
to consider
report of the
Committee.

5. The Central Government shall, before issuing the notification referred to in sub-section (1) of section 2, give due consideration to the report of the Committee of Experts.

Power to
make rules.

6. The Central Government may, by notification in the Official Gazette, make rules to carry out of the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

The total geographical area of the State of Uttaranchal is about 53485 sq. km., out of which 34661 sq. km., *i.e.*, about 65 per cent area forms forest wealth of the State. Encroachment on forest land is an offence under the provisions of the Indian Forest Act, 1927. With the enactment of the Forest (Conservation) Act, 1980, all cases of regularization of such encroachments are required to be forwarded by the State Government for approval by the Central Government. It is undisputable that exploitation of forest land for agricultural and other use is one of the main causes of encroachment which has resulted in decline of forest resources. However, it would not be prudent to evict encroachments from such forest land which is forest land only on records without much forest wealth and where settlements exist for more than two three decades. The Government of India have also, as a one time dispensation, issued guidelines on 18th September, 1990 for regularization of pre-1980 eligible encroachments on forest lands keeping view the fact that various State Governments had taken a decision to regularize certain categories of encroachment but could not implement the decision as Forest (Conservation) Act came into effect. This relaxation is not applicable to encroachments that took place after 24th October, 1980. One of the guidelines issued by the Government provides that all the pre-1980 encroachments shall not be eligible for regularization. Only certain categories of pre-1980 encroachment can be regularized. The State of Uttaranchal has been created only recently. Therefore, it is necessary that the Government of the State of Uttaranchal be given opportunity to submit its proposal of regularization of all pre-1980 encroachments for approval to the Central Government. However, with the restraint imposed by the Supreme Court on the Central Government with regard to regularization of encroachment in the country by their order dated 23rd November, 2001 in IA No. 703 in WP No. 202/95, the process of regularization of encroachment in the country has come to a halt. Accordingly, the State Governments are required to get all ineligible pre-1980 and all post-1980 encroachments removed from the forest lands. As the State of Uttaranchal was not formed in the year 1990 *i.e.* when the guidelines were issued by the Central Government for regularization of pre-1980 encroachment, it is judicious that the Government of Uttaranchal must be given an opportunity to regularize its pre-1980 encroachments on forest lands notwithstanding the orders of the Supreme Court which have been made almost at the time of creation of the State of Uttaranchal. The Union Minister of Environment and Forests in his reply to Starred Question No. 284, dated 16 October, 2004, submitted before the House that whatever the observation of the Court, the Government is committed and that the forest village should be converted into revenue villages. The Minister also informed that the Government has filed an affidavit before the Supreme Court to protect the tribals and that the entire jurisdiction of the Ministry is not ousted.

As the matter regarding regularization of encroachments is likely to be delayed due to its pendency in the Court of Law, it is necessary that a law should be enacted to provide for regularization of all pre-1980 encroachments on forest lands in the State of Uttaranchal and their conversion into revenue land so that the people living on such land may become eligible for all such benefits as are available to people living on revenue land. Such a law will not affect the process of conservation of forest as all such encroachments have regular schools, roads, electricity, water facility and other things.

Hence this Bill.

NEW DELHI;
March 28, 2005

K.C. SINGH "BABA".

FINANCIAL MEMORANDUM

Clause 3 provides that the Central Government shall constitute a Committee of Experts to identify the encroached reserved forest lands in the State of Uttaranchal. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of approximately rupees fifty lakh is likely to be involved as a non-recurring expenditure per annum.

No recurring expenditure is likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. These rules will relate to the matters of detail only. The delegation of legislative power is, therefore, of a normal character.

G. C. MALHOTRA,
Secretary-General.